

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

|                                  |   |                           |
|----------------------------------|---|---------------------------|
| <b>UNITED STATES OF AMERICA,</b> | ) | <b>CASE NO. 8:11CR149</b> |
|                                  | ) |                           |
| <b>Plaintiff,</b>                | ) |                           |
|                                  | ) |                           |
| <b>vs.</b>                       | ) | <b>TENTATIVE FINDINGS</b> |
|                                  | ) |                           |
| <b>ROBERT E. COVER,</b>          | ) |                           |
|                                  | ) |                           |
| <b>Defendant.</b>                | ) |                           |

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 61).<sup>1</sup> The Defendant also filed a motion for downward departure or variance, accompanied by an index of evidence (Filing Nos. 62, 63). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant appears to the prior conviction underlying the application of the 10-year mandatory minimum sentence referred to in ¶ 77 of the PSR. The objection will be heard at sentencing. Any objections submitted to the probation officer and referred to in the Addendum and not addressed in the sentencing memorandum are deemed waived.

The Court will hear the Defendant's motion for downward departure or variance, if applicable.

IT IS ORDERED:

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<sup>1</sup>The Defendant did not file objections with the Court; however, he argues objections in his Sentencing Memorandum (Filing No. 61).

1. The Defendant's objections to ¶ 77 of the PSR, and the underlying conviction, will be heard at sentencing;

2. The Defendant's motion for downward departure or variance will be heard at sentencing;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 6<sup>th</sup> day of March, 2012.

BY THE COURT:

s/ Laurie Smith Camp  
Chief United States District Judge